
WELSH STATUTORY INSTRUMENTS

2012 No. 3097

The Education (Student Support) (Wales) Regulations 2012

PART 13

SUPPORT FOR POSTGRADUATE STUDENTS WITH DISABILITIES

Eligible postgraduate students

119.—(1) An eligible postgraduate student qualifies, subject to and in accordance with this Part, for a grant to assist with the additional expenditure which the Welsh Ministers are satisfied the eligible postgraduate student is obliged to incur by reason of a disability to which the eligible postgraduate student is subject in respect of the eligible postgraduate student undertaking a designated postgraduate course.

(2) A person is an eligible postgraduate student in connection with a designated postgraduate course if that person satisfies the conditions in paragraph (3) and is not excluded by paragraph (4).

(3) The conditions referred to in paragraph (2) are—

- (a) the Welsh Ministers, in assessing a person's application for support under regulation 124, have determined in connection with the designated postgraduate course that the person falls within one of the categories set out in Part 2 of Schedule 1; and
- (b) the Welsh Ministers are satisfied that, by reason of a disability to which the person is subject, the person will be obliged to incur additional expenditure in respect of undertaking the course.

(4) Subject to paragraph (9), a person ("A" in this paragraph) is not an eligible postgraduate student if—

- (a) there has been bestowed on or paid to A in relation to A undertaking the course—
 - (i) a healthcare bursary;
 - (ii) any allowance under the Nursing and Midwifery Student Allowances (Scotland) Regulations 2007;
 - (iii) any allowance, bursary or award of similar description made by a Research Council;
 - (iv) any allowance, bursary or award of similar description made by A's institution which includes any payment for the purpose of meeting additional expenditure incurred by A by reason of A's disability; or
 - (v) any allowance, bursary or award of similar description made under section 67(4)(a) of the Care Standards Act 2000⁽¹⁾ which includes payment for meeting additional expenditure incurred by A by reason of A's disability; or
- (b) A is in breach of an obligation to repay any loan;
- (c) A has reached the age of 18 and has not ratified any agreement for a loan made with A when A was under the age of 18;

- (d) A has, in the opinion of the Welsh Ministers, shown by A's conduct that A is unfitted to receive support under this Part.
- (5) For the purposes of paragraphs (4)(b) and (4)(c), "loan" ("*benthyciad*") means a loan made under the student loans legislation.
- (6) In a case where the agreement for a loan is subject to the law of Scotland, paragraph (4)(c) only applies if the agreement was made—
- (a) before the 25 September 1991; and
 - (b) with the concurrence of the borrower's curator or at a time when the borrower had no curator.
- (7) An eligible postgraduate student does not qualify for a grant under this Part if the only paragraph in Part 2 of Schedule 1 into which the eligible postgraduate student falls is paragraph 9.
- (8) Save where the circumstances described in regulation 126(3)(c)(ii) apply such that an eligible postgraduate student undertakes part of that student's course overseas, an eligible postgraduate student does not qualify for a grant under this Part unless the eligible postgraduate student is undertaking the course in the United Kingdom.
- (9) Subject to paragraphs (11) to (13) and despite paragraphs (3)(a) and (4), a person is an eligible postgraduate student for the purposes of this Part if the person satisfies the conditions in paragraph (3)(b) and paragraph (10)(a) or (b).
- (10) The conditions referred to in paragraph (9) are—
- (a) the—
 - (i) person qualified as an eligible postgraduate student in connection with an earlier academic year of the present postgraduate course pursuant to regulations made by the Welsh Ministers under section 22 of the 1998 Act;
 - (ii) person was ordinarily resident in Wales on the first day of the first academic year of the present postgraduate course; and
 - (iii) person's status as an eligible postgraduate student has not terminated;
 - (b) the—
 - (i) Welsh Ministers have previously determined that the person is an eligible postgraduate student in connection with a designated postgraduate course other than the present postgraduate course;
 - (ii) person's status as an eligible postgraduate student in connection with the course in sub-paragraph (b)(i) has been transferred from that course to the present course as a result of one or more transfers in accordance with regulations made by the Welsh Ministers under section 22 of the 1998 Act;
 - (iii) person was ordinarily resident in Wales on the first day of the first academic year of the course referred to in sub-paragraph (b)(i); and
 - (iv) person's status as an eligible postgraduate student has not terminated.
- (11) Where—
- (a) the Welsh Ministers have determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A" in this paragraph) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which A's status as an eligible postgraduate student has been transferred to the present postgraduate course; and
 - (b) as at the day before the academic year in respect of which A is applying for support starts, the refugee status of A or of A's spouse, civil partner, parent (as defined in Part 1 of

Schedule 1) or step-parent has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(12) Where—

- (a) the Welsh Ministers have determined that, by virtue of being a refugee or the spouse, civil partner, child or step-child of a refugee, a person ("A" in this paragraph) was an eligible postgraduate student in connection with an application for support for an earlier year of the present postgraduate course or an application in connection with another designated postgraduate course from which A's status as an eligible postgraduate student has been transferred to the present postgraduate course; and
- (b) as at the day before the academic year in respect of which A is applying for support, the period for which the person with leave to enter or remain is allowed to stay in the United Kingdom has expired and no further leave to remain has been granted and no appeal is pending (within the meaning of section 104 of the Nationality, Immigration and Asylum Act 2002),

A's status as an eligible postgraduate student terminates immediately before the first day of the academic year in respect of which A is applying for support.

(13) Paragraphs (11) and (12) do not apply where the student began the course in connection with which the Welsh Ministers determined that the student was an eligible postgraduate student before 1 September 2007.

(14) An eligible postgraduate student does not, at any one time, qualify for support for—

- (a) more than one designated postgraduate course;
- (b) a designated postgraduate course and a designated distance learning course;
- (c) a designated postgraduate course and a designated course;
- (d) a designated postgraduate course and a designated part-time course.

Students becoming eligible during the course of the academic year

120.—(1) Where one of the events listed in paragraph (2) occurs in the course of an academic year—

- (a) a student may qualify for a grant under this Part in respect of that academic year in accordance with this Part; and
- (b) a grant of the kind available under this Part is not available in respect of any academic year beginning before the academic year in which the relevant event occurred.

(2) The events are—

- (a) the student's course becomes a designated postgraduate course;
- (b) the student, or the student's spouse, civil partner or parent (as defined in Part 1 of Schedule 1) is recognised as a refugee or becomes a person with leave to enter or remain;
- (c) the state of which the student is a national accedes to the European Union where the student has been ordinarily resident in the United Kingdom and Islands throughout the three-year period immediately preceding the first day of the first academic year of the course;
- (d) the student acquires the right of permanent residence;
- (e) the student becomes a child of a Turkish worker;
- (f) the student becomes a person described in paragraph 6(1)(a) of Part 2 of Schedule 1; or

- (g) the student becomes the child of a Swiss national.

Designated postgraduate courses

121.—(1) A postgraduate course is designated for the purposes of section 22(1) of the 1998 Act and regulation 119 if—

- (a) it is a course entry for which a first degree (or equivalent qualification) or higher is normally required;
 - (b) it is a course—
 - (i) of at least one academic year’s duration; and
 - (ii) in the case of a part-time course, it is ordinarily possible to complete the course in not more than twice the period ordinarily required to complete the full time equivalent;
 - (c) it is wholly provided by a publicly funded educational institution in the United Kingdom or is provided by such an institution conjunction with an institution outside the United Kingdom; and
 - (d) it is not a course for the initial training of teachers or a course taken as part of an employment based teacher training scheme.
- (2) For the purposes of paragraph (1)—
- (a) a course is provided by an institution if it provides the teaching and supervision which comprise the course, whether or not it has entered an agreement with the student to provide the course;
 - (b) a university and any constituent college or institution in the nature of a college of a university is regarded as publicly funded if either the university or the constituent college or institution is publicly funded; and
 - (c) an institution is not regarded as publicly funded by reason only that it receives public funds from the governing body of a higher education institution in accordance with section 65(3A) of the Further and Higher Education Act 1992(2).
- (3) For the purposes of paragraph (1)(b)(ii)—
- (a) “full-time equivalent” (“*cwrs llawnamser cyfatebol*”) means a full-time course leading to the same qualification as the part-time course in question;
 - (b) “period ordinarily required to complete the full-time equivalent” (“*cyfnod y mae ei angen fel arfer i gwblhau'r cwrs llawnamser cyfatebol*”) means the period in which a standard full-time student would complete the full-time equivalent;
 - (c) “standard full-time student” (“*myfyriwr llawnamser safonol*”) means a student who is to be taken—
 - (i) to have started the full-time equivalent on the same date as the eligible part-time student started the part-time course in question;
 - (ii) not to have been excused any part of the full-time equivalent;
 - (iii) not to have repeated any part of the full-time equivalent; and
 - (iv) not to have been absent from the full-time equivalent other than during vacations.
- (4) For the purposes of section 22 of the 1998 Act and regulation 119, the Welsh Ministers may designate courses of higher education which are not designated under paragraph (1).

(2) 1992 c. 13; section 65(3A) was inserted by the Teaching and Higher Education Act 1998 (c. 30), section 27.

Period of eligibility

122.—(1) A student’s status as an eligible postgraduate student is retained in connection with a designated postgraduate course until that status is terminated in accordance with this regulation or regulation 119.

(2) The period for which an eligible postgraduate student retains the status referred to in paragraph (1) is the “period of eligibility” (“*cyfnod cymhwysra*”).

(3) Subject to the following paragraphs and regulation 119, the period of eligibility terminates at the end of the period ordinarily required for completion of the designated postgraduate course.

(4) The period of eligibility terminates when the eligible postgraduate student (“A” in this paragraph and paragraph (5))—

- (a) withdraws from A’s designated postgraduate course in circumstances where the Welsh Ministers have not transferred or will not transfer A’s status as an eligible postgraduate student to another course under regulation 123; or
- (b) abandons or is expelled from A’s designated postgraduate course.

(5) The Welsh Ministers may terminate the period of eligibility where A has shown by A’s conduct that A is unfitted to receive support under this Part.

(6) Where the eligible postgraduate student is undertaking a designated postgraduate course that is a part-time course, the period of eligibility terminates at the end of the academic year during or at the end of which it becomes impossible for the eligible postgraduate student to complete the course within the period specified in regulation 121(1)(b)(ii).

(7) If the Welsh Ministers are satisfied that an eligible postgraduate student has failed to comply with any requirement to provide information under this Part or has provided information which is inaccurate in a material particular, the Welsh Ministers may take such of the following actions as they consider appropriate in the circumstances—

- (a) terminate the period of eligibility;
- (b) determine that the student no longer qualifies for a grant or any particular amount of grant under this Part;
- (c) treat any support paid to the student as an overpayment which may be recovered under regulation 128.

(8) Where the period of eligibility terminates on or before the expiry of the period ordinarily required for the completion of the designated postgraduate course, the Welsh Ministers may, at any time, renew the period of eligibility for such periods as they determine.

Transfer of status

123.—(1) Where an eligible postgraduate student transfers from a designated postgraduate course to another designated postgraduate course, the Welsh Ministers must transfer the student’s status as an eligible postgraduate student to that other course where—

- (a) they receive a request from the eligible postgraduate student to do so;
- (b) they are satisfied that one or more of the grounds for transfer in paragraph (2) applies; and
- (c) the period of eligibility has not terminated.

(2) The grounds for transfer are—

- (a) on the recommendation of the academic authority the eligible postgraduate student starts to undertake another designated postgraduate course at the same institution; or
- (b) the eligible postgraduate student starts to undertake a designated postgraduate course at another institution.

(3) Subject to paragraph (4), an eligible postgraduate student who transfers under paragraph (1) is entitled to receive in connection with the academic year of the course to which the eligible postgraduate student transfers the remainder of the support under this Part for which the Welsh Ministers have determined the eligible postgraduate student qualifies in respect of the academic year of the course from which the eligible postgraduate student transfers.

(4) The Welsh Ministers may re-assess the support after the transfer in accordance with this Part.

(5) An eligible postgraduate student who transfers under paragraph (1) after the Welsh Ministers have determined the eligible postgraduate student's support under this Part in connection with the academic year of the course from which the eligible postgraduate student is transferring but before the eligible postgraduate student completes that year may not apply for another grant under this Part in connection with the academic year of the course to which the eligible postgraduate student transfers.

Applications for support

124.—(1) A person must apply for a grant under this Part in connection with each academic year of a designated postgraduate course by completing and submitting to the Welsh Ministers an application in such form and accompanied by such documentation as the Welsh Ministers may require.

(2) The application must reach the Welsh Ministers as soon as is reasonably practicable.

(3) The Welsh Ministers may take such steps and make such inquiries as they consider necessary to determine whether the applicant is an eligible postgraduate student, whether the applicant qualifies for a grant and the amount of grant payable, if any.

(4) The Welsh Ministers must notify the applicant—

- (a) whether the applicant qualifies for a grant;
- (b) if the applicant does qualify, the amount payable in respect of the academic year, if any; and
- (c) how that amount is allocated between the types of eligible expenditure.

Information

125. Schedule 3 applies in respect of the provision of information by an applicant and an eligible postgraduate student.

Amount of grant

126.—(1) Subject to paragraph (2), the grant payable to an eligible postgraduate student under this Part is such amount as the Welsh Ministers consider appropriate to assist with one or more types of eligible expenditure.

(2) The grant must not exceed £10,590 in respect of an academic year.

(3) For the purposes of this Part, the “types of eligible expenditure” are—

- (a) expenditure on a non-medical helper;
- (b) expenditure on major items of specialist equipment; and
- (c) additional expenditure incurred—
 - (i) within the United Kingdom for the purpose of attending the institution;
 - (ii) within or outside the United Kingdom for the purpose of attending, as part of the course, any period of study at an overseas institution or for the purposes of attending the Institute.

Payment of grant

127.—(1) The Welsh Ministers may pay a grant for which an eligible postgraduate student qualifies under this Part in such instalments (if any) and at such times as they consider appropriate and in the exercise of their functions under this Part they may make provisional payments pending the final calculation of the amount of grant for which the student qualifies.

(2) Payments may be made in such manner as the Welsh Ministers consider appropriate and they may make it a condition of entitlement to payment that the eligible postgraduate student must provide them with particulars of a bank or building society account in the United Kingdom into which payments may be made by electronic transfer.

Overpayments

128.—(1) An eligible postgraduate student must, if so required by the Welsh Ministers, repay any amount paid to the eligible postgraduate student under this Part which for whatever reason exceeds the amount of grant to which the eligible postgraduate student is entitled under this Part.

(2) The Welsh Ministers must recover an overpayment of grant under this Part unless they consider it is not appropriate to do so.

(3) The methods of recovery are—

- (a) subtracting the overpayment from any kind of grant payable to the eligible postgraduate student from time to time pursuant to regulations made by the Welsh Ministers under section 22 of the 1998 Act;
- (b) taking such other action for the recovery of an overpayment as is available to them.

(4) A payment of grant under this Part made before the relevant date is an overpayment if the eligible postgraduate student withdraws from the course before the relevant date unless the Welsh Ministers decide otherwise.

(5) In this regulation, the “relevant date” (“*dyddiad perthnasol*”) is the date on which the first term of the academic year in question actually begins.

(6) In either of the circumstances in paragraphs (7) and (8), there is an overpayment of grant under this Part unless the Welsh Ministers decide otherwise.

(7) The circumstances referred to in paragraph (6) are—

- (a) the Welsh Ministers apply all or part of the grant under this Part to the purchase of specialist equipment on behalf of the eligible postgraduate student;
- (b) the student’s period of eligibility terminates after the relevant date; and
- (c) the equipment has not been delivered to the student before the student’s period of eligibility terminates.

(8) The circumstances referred to in paragraph (6) are—

- (a) the eligible postgraduate student’s period of eligibility terminates; and
- (b) a payment of grant under this Part in respect of specialist equipment is made to the student after the student’s period of eligibility terminated.

(9) Where there is an overpayment of the grant under this Part, the Welsh Ministers may accept the return of specialist equipment purchased with the grant by way of recovery of all or part of the overpayment if they consider it is appropriate to do so.